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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

TUCKER, PHILIP C

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 03/12/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

805316

Applicant(s)

GREEN

Examiner

P. TUCKER

Group Art Unit

1712

--The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address--

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 12/20/02 - RCE
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 111; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1 - 17 is/are pending in the application.
- Of the above claim(s) 15 - 17 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1 - 14 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/20/02 has been entered.

Election/Restriction

2. Newly submitted claims 15-17 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: New claims 15-17 are drawn to a method of pelletizing a base material classified in class 428, while the original claims were directed to a pelletized additive for drilling operations, classified in class 507.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 15-17 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

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Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-14 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicants specification fails to teach that the material is "untreated", and this thus introduces new matter into the claims.

In claim 14, the teaching that the particles define an original particle size distribution and wherein the pellet body is further operable to revert to substantially the original particle size distribution of the plurality of untreated comminuted particles, is new matter.

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Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

6. Claims 1, 2, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Bloys (5065820).

Bloys teaches a lost circulation additive which comprises compressed sponge particles (column 3, lines 14-25).

7. Claims 1, 2, 7-11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Alexander (4836940).

Alexander teaches a lost circulation additive which comprises pellets of bentonite and a polymer (see claim 1).

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8. Claims 1, 2, 7, 10, 11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Cremeans (4217965).

Cremeans teaches a lost circulation additive which comprises ground cottonseed hulls (see claim 1 and column 3, line 67 - column 4, line 2).

9. Claims 1, 2, 5, 8-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Wagener (4428844).

Wagener teaches a lost circulation additive which comprises pellets of paper (see column 4, line 30 - column 5, line 21).

10. Claims 1, 2, 7, 10 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Alexander (4462470).

Alexander teaches a lost circulation additive which comprises pellets of clay (column 3, lines 31-45).

11. Claims 1, 2, 7-11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Armentrout (2836555).

Armentrout teaches a lost circulation additive which comprises compressed pellets of bentonite clay (see claim 1).

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12. Claims 1, 2, 7, 10 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Armentrout (2642268).

Armentrout teaches a lost circulation additive which comprises compressed pellets of materials such as bentonite (see claim 1 and column 3, line 50 - column 4, line 35).

13. Applicants arguments have been considered but are not deemed persuasive. Applicants claims state that the pellet body is operable to disperse within the drilling fluid, directly upon introduction into the drilling fluid, the pellet when dispersed in the drilling fluid is operable to inhibit lost circulation, seepage loss and fluid loss. All of the pellets taught by the prior art disperse within the drilling fluid upon being introduced therein. Applicants claims state that the pellets themselves inhibit the lost circulation, fluid loss and seepage of the drilling fluid. Applicants arguments seem to be directed to the different concept of the breaking up of the pellets into particles which are distributed through the fluid. However, applicants specification at page 3, lines 14-16 states that the additive, which comprises the pellets and not the individual particles, are distributed through the fluid.


The insertion of "untreated" and "raw" does not distinguish, since the claim uses the language "comprising" in describing the ingredients of the pellet. Thus the claims do not distinguish over Wagener. The scope of the material as being "raw or untreated" is further confusing in view of the numerous components which are used along with the base materials as claimed in claims 3-10. A truly "untreated" material would not comprise any of these materials.

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The declaration of Rose only relates to the sale of goods to buyers, in that disclosure of ingredients to customers would necessitate the revelation of chemicals contained therein which could be harmful, but does not relate to the patent disclosure. One of ordinary skill in the art, practicing the invention, would not add any products which would be detrimental to the environment, or health of the workers upon reading the specification. The rejections are thus maintained.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Tucker whose telephone number is (703) 308-0529. The examiner's normal working hours are 7:30am-4:00pm, Monday-Friday. If necessary SPE Robert Dawson may be contacted at 703-308-2340. For inquiries of a general nature call the receptionist at 703-308-0651. The group FAX no. is 703-872-9310. The **after final** fax no. is 703-872-9311.

PCT-2752
March 6, 2003


PHILIP C. TUCKER
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